

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 20 September 2005

CASE NO.: 2005 ERA 16

In the Matter of

CURTIS L. REPASS
Complainant

v.

EXELON GENERATION CO., LLC¹
Respondent

Appearances: Ms. Billie P. Garde, Attorney
For the Complainant

Mr. Donn C. Meindertsma, Attorney
For the Respondent

Before: Richard T. Stansell-Gamm
Administrative Law Judge

**ORDER --
SETTLEMENT APPROVAL &-
DISMISSAL OF COMPLAINT WITH PREJUDICE**

This matter arises under the employee protection provision of Section 211 of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851, as implement by 29 C.F.R. Part 24. Pursuant to a Notice of Hearing, dated July 13, 2005, and based on a telephone conference call with the parties' counsel, I set a hearing date of November 15, 2005 for this case in Rockford, Illinois.

On August 29, 2005, the parties signed an agreement which fully settles and resolves their dispute. Both parties were ably represented by counsel. The Complainant represents his understanding of the agreement's provisions and voluntarily accepts the settlement. Having reviewed the agreement, I find the provisions are fair, adequate and not contrary to public

¹On June 27, 2005, the parties stipulated to the dismissal of two of the three respondents named in the Complaint, Exelon Corp. and Byron Nuclear Generating Station. In light of their stipulation, only Exelon Generation Co. LLC remains as a respondent.

interest.² Further, the settlement supports a finding that the complaint be dismissed with prejudice. Accordingly, approval of the agreement is appropriate. Upon my approval, the parties shall implement their settlement as specifically stated in the agreement.³

ORDER

1. The parties' Settlement Agreement is **APPROVED**.
2. The hearing scheduled for November 15, 2005 is **CANCELLED**.
2. The ERA complaint of Mr. Curtis L. Repass is **DISMISSED WITH PREJUDICE**.⁴

SO ORDERED:

A
RICHARD T. STANSELL-GAMM
Administrative Law Judge

Date Signed: September 20, 2005
Washington, D.C.

²See *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, 89-ERA-9, 89-ERA-10 (Sec'y Mar. 23, 1989) and *Heffley v. NGK Metals Inc.*, 89-SDW-2 (Sec'y Mar. 6, 1990).

³The parties have agreed to keep the specific terms of the agreement confidential, subject to applicable laws. To effectuate such confidentiality, I have sealed the settlement agreement. However, notwithstanding the parties' agreement, the parties' submissions, including the settlement agreement, become part of the record of the case and are subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 (a). If a FOIA request is made for the settlement agreement, the U.S. Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption. See *Debose v. Carolina Power and Light Co.*, 92-ERA-14 (Sec'y Feb. 7, 1994) and *Darr v. Precise Hard Chrome*, 95-CAA-6 (Sec'y May 9, 1995).

⁴Pursuant to 29 C.F.R. § 24.7 (d), this decision becomes the final order of the Secretary, U.S. Department of Labor, unless a petition for review is timely (ten business days from date of decision) filed with the Administrative Review Board under 29 C.F.R. § 24.8.